

D.P.U. 93-124-B

Petition of Town of Stow for an Advisory Ruling, pursuant to the provisions of 220 C.M.R. 2.08, concerning the application of G.L. c. 164, §§ 42 and 43 to the Town of Stow and to the Hudson Light and Power Department.

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## I. INTRODUCTION

On May 11, 1994, the Town of Stow ("Stow") filed with the Department of Public Utilities ("Department") a Motion for Reconsideration of the Department's Advisory Ruling in Town of Stow, D.P.U. 93-124-A (1994) ("Motion"), issued on May 4, 1994. The Hudson Light and Power Department ("HL&PD") and the Reading Municipal Light Department ("RMLD") filed responses to Stow's Motion. In response to Stow's Motion for Reconsideration, the Department clarifies Town of Stow, D.P.U. 93-124-A (1994).

## II. CLARIFICATION OF ADVISORY RULING

The issue presented in Stow's Petition for an Advisory Ruling is whether "damages," as that term is used in G.L. c. 164, § 43, include consequential and economic damages relating to wholesale purchase power contracts and other relationships associated with the ownership or purchase of electric generation. The Department recognizes that the interpretation of a statute is an issue of law, and requires no factual determination. The passage from D.P.U. 93-124-A, at p. 12, cited in Stow's Motion, at p. 1, meant no more than that the Department regarded first-impression constructions of a statute as best made during adjudication of an actual controversy. Advisory rulings under G.L. c. 30A, § 8, are discretionary and the Department ordinarily prefers to abstain from bare constructions of law outside the litigation setting. The Department has determined to abstain here from a construction of

G.L. c. 164, § 43. Finally, Stow claims that it is entitled to an advisory ruling as a result of reliance on the Department's investigation of the matter. Because G.L. c. 30A, § 8 rulings are discretionary, Stow's claim is untenable.

By Order of the Department,

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Kenneth Gordon  
Chairman

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Mary Clark Webster  
Commissioner